



2.402 Open Meetings

There appear to be four essential elements in the Montana “open meetings” law encoded at 2-3-202, 203, 211 and 212, MCA:

- If a *quorum* of a local government commission or council is convened by either the physical presence of the members or by means of electronic equipment, such as a conference call; and if
- The commission or council will *hear, discuss or act* upon a matter over which it has supervision, control, jurisdiction or advisory power; then
- The meeting *must be open to the public* and the press must be permitted to photograph, televise or record the proceedings of the meeting; and
- Legally sufficient *minutes* of the meeting must be kept and made available for public inspection.

In brief, if a *quorum* of the local government commission or council meets (whether formally or informally and whether in a public or private facility), to *discuss or hear or act upon a matter over which it has jurisdiction*, it is a *public meeting*. As such, the meeting must be open to the public, including the press, and minutes must be kept of the substance of the meeting.

Moreover, common sense suggests that if the public has not been informed that a quorum of a governing body is planning to convene to discuss the public’s business, the public and the press are effectively excluded from the meeting. Hence, *advance notice of any public meeting of a local governing body* is essential to comply with the letter and the spirit of Montana’s open meeting law. (See especially A.G. Opinion 51-12, December 2005). Notice requirements and the

very few exceptions to the stringent open meeting requirements of public bodies are very important legal issues that *require consultation with the city attorney before the meeting takes place*. Failure to do so may well result in a violation of the open meeting law, followed by expensive litigation and consequent voiding of an important decision.

Finally, it may be useful to recall that the public’s confidence and trust in local

government officials may be adversely impacted by the *perception* of covert government meetings, even if an erroneous perception. Experienced local officials who understand this dilemma and know that there is no such thing as anonymity for local officials in a Montana community, will go to considerable lengths to avoid any possible misperception that their governing body chooses to ignore the Montana open meeting law.

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